FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9921 OF 2004

Office notes, office	:	
Memoranda of Coram,	:	
appearances, Court's	:	Court's or Judge's Orders
orders or directions	:	
& Registrar's orders.	:	.

Mr. N. J. Patil for the petitioners.

Mr. D.V. Satar for respondents 1(d) to 1(h).

CORAM: SMT. RANJANA DESAI, J.

DATED: 12TH APRIL, 2005.

P.C.:-

In this writ petition, the judgment and order dated 17/9/2004 passed by the IIIrd Additional District Judge, Kolhapur, is under challenge. By the impugned judgment and order, the lower appellate court has dismissed the application for condonation of delay in filing the appeal. I am informed that there was a delay of 73 days in filing the appeal.

I have heard the learned counsel appearing for the parties. It appears that the petitioners are carpenters by

profession and they were out of station on account of their work and, therefore, they could not take steps to file the appeal in time. In the peculiar facts and circumstances of the case, in my opinion, the interest of justice demand that the delay may be condoned after saddling the petitioners with costs. Hence the following order.

The impugned judgment and order dated 17/09/2004 is set aside. The delay is condoned. The lower appellate court is directed to hear and dispose of the appeal within a period of six months from the date of receipt of this order. The petitioners shall pay costs quantified at Rs.2000/- to the respondents. Costs shall be deposited in the lower appellate court. On such deposit being made, the respondents will be at liberty to withdraw the same. Payment of costs shall be condition precedent for condoning the delay. The amount will be deposited within four weeks from today.

Writ petition is disposed of.

Till such time as the appeal is finally heard and disposed of, the respondents should not execute the decree.

All concerned to act on the authenticated copy of this order.

(SMT. RANJANA DESAI, J.)